

THE HON'BLE SRI JUSTICE P.S.NARAYANA

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WRIT PETITION NO.13712 of 2006

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DATED: 06.07.2006

-  
Between

Abdul Rahman.

.. PETITIONER

Versus

The Municipality of Metpally,  
Represented by its Commissioner,  
Having office at Municipality Office,  
Metpally, Karimnagar District.

.. RESPONDENTS

WRIT PETITION NO.13712 of 2006

ORDER:

Heard the learned counsel.

2. The Writ Petition is praying for a Writ of Mandamus declaring that the petitioner is entitled to raise construction at his premises bearing MC.No.2-1-311, admeasuring 353 sq. meters, situated at Metpally, Karimnagar District, as per the proposed plan submitted by him in view of the non-compliance of the mandatory provisions of Section 212 of Municipality Act by the respondent and consequently direct the respondent not to stop the petitioner from raising construction at premises bearing MC.No.2-1-311, admeasuring 353 sq. meters situated at Metpally, Karimnagar District as per the proposed plan and pass such other suitable orders.

3. It is stated in the affidavit filed in support of the Writ Petition that the petitioner is the absolute and lawful owner and possessor of the property bearing MC.No.2-1-311, admeasuring 840 sq. yards, situated at Metpally, Karimnagar District. It is also stated that in the month of October, 1997, the National Highway Authorities acquired his property for the purpose of road widening and demolished the same and the remaining admeasuring 353 sq. yards is still in his possession. At the time of demolition of his house, the concerned authority gave a notice to him vide reference No.A2/348/G.P.M/97, dated 1.11.1997 and the contents of the said notice also had been, in detail, specified in the affidavit. It is also stated that on assurance and on the promise made by the Executive Officer of Gram Panchayat, he had given them permission to demolish his property without any objection. Thereafter,

he could not raise construction because of paucity of funds. It is stated that on 12.12.2005, he submitted an application with plan to raise construction on the remaining portion of his property, in the office of the respondent. It is stated that on 16.3.2006 he paid a sum of Rs.4,760/- towards the construction fee. It is also stated that even after completing all the formalities and complying with the mandatory provisions of the Municipality Act, the respondent had not intimated him about his approval or disapproval and he has been sitting on his file tightly without disposing of the same. It is further stated that on 2.7.2006 the respondent had made an attempt to dismantle the existing structure, but due to intervention of the well wishers and the Municipal Council, he could not carry out the said work. It is stated that on one hand the respondent had not approved his plan within the statutory period nor conveyed his disapproval and on the other hand he is inclined to adopt coercive methods to dismantle the existing structure. It is also stated that the attitude of the respondent, who is a successor in the office of Executive Officer, Gram Panchayat, is hit by Doctrine of Promissory Estoppel, as the Gram Panchayat, Metpally, had been upgraded to Municipality in the year 2005, which will not alter the situation nor the respondent can contend that because of the upgradation he is entitled to say good-bye to the promise made by his predecessor in office. It is further stated that under Section 212 of the Municipality Act, the Commissioner, Municipality has to signify his approval or disapproval within 60 days from the date of receiving the application. In such circumstances, the writ petitioner had approached this Court.

In the light of the facts and circumstances, which had been well narrated, the respondent herein is directed to consider and dispose of the application of the petitioner for grant of permission in accordance with law within a period of two (02) weeks from the date of receipt of a copy of this order, and till appropriate orders are made in this regard,

status quo obtaining as on today to be maintained.

With the above direction, the Writ Petition is disposed of. No costs.

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06.07.2006

SSR

Issue order copy in two days.

(BO)